

**UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF NEW YORK**

IN RE:

**Dominick N. Mamone,
SSN: xxx-xx-2214**

Debtor.

**Hearing Date: January 29, 2015
Hearing Time: 9:15 a.m.
Hearing Location: Albany**

**Case No. 10-11206
Chapter 13**

**TRUSTEE'S MOTION TO MODIFY CONFIRMED CHAPTER 13 PLAN TO
INCREASE MONTHLY PLAN PAYMENTS BASED ON
DEBTOR'S ABILITY TO PAY AND GOOD FAITH**

Andrea E. Celli, Chapter 13 Standing Trustee (the "Trustee"), states the following as and for her motion for an Order pursuant to 11 U.S.C. §§105 and 1329 modifying the debtor's confirmed Chapter 13 plan to increase the debtor's monthly plan payment based on the debtor's ability to pay and good faith:

1. On March 31, 2010, debtor filed a petition for relief.
2. On May 24, 2010, debtor's Chapter 13 plan was confirmed providing for a monthly payment of \$950.00 per month for a total term of sixty (60) months with a lump sum to be funded to complete the plan in the 60th month so as to pay unsecured creditors a minimum liquidation value of \$60,611.00 on allowed claims.
3. The Confirmation Order also required the debtor to provide the Trustee with copies of his annual tax returns by June 1st of each year.
4. At filing, debtor's current yearly household income was \$117,999.96 according to the Chapter 13 Statement of Current Monthly Income of the debtor's petition.
5. A review of the debtor's 2013 tax return indicates that the debtor had household income of \$126,185.00 with a tax liability of \$9,826.00.

6. Based upon the tax returns, it is clear that the debtor's annual income has increased since filing.

7. It would appear that the debtor has additional monthly disposable income of \$443.36.

8. At this time, the Trustee proposes to modify the debtor's plan to increase the monthly plan payment from \$950.00 to \$1,393.36 per month commencing in January 2015 with the plan term to run 60 months from the date of confirmation.

9. The basis for the requested increase is as follows: Debtor experienced an increase in income of \$8,185.04, as reflected on debtor's 2013 tax return. Subtracting 35% (estimated tax withholdings of \$2,864.76) from the increase of \$8,185.04 equals \$5,320.28 divided by 12 equals \$443.36 per month.

10. The Trustee also proposes to increase the plan base by the sum of \$5,320.28 representing the monthly increase in income during 2013.

11. In addition, the Trustee requests the debtor submit the following documentation to her office by the return date of this motion, January 29, 2015: 2014 W-2, 2014 Profit and Loss Statement and Year-to-date paystubs.

12. Absent additional information and the debtor's apparent ability to pay in good faith, it appears that the debtor's plan base and monthly plan payment should be increased for the benefit of creditors in this case.

WHEREFORE, the Trustee respectfully requests that this Court issue an Order pursuant to 11 U.S.C. §§105 and 1329 modifying the debtor's confirmed Chapter 13 plan increase the debtor's monthly plan payments to more accurately reflect debtor's financial situation, and for such other and further relief as this Court may deem just and proper.

Respectfully submitted,

Dated: January 7, 2015

/s/ Bonnie S. Baker
Bonnie S. Baker, Esq.
Office of Andrea E. Celli
Chapter 13 Standing Trustee
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